

Staff Report

1515 Indiana Three Season Porch Construction And Storm Water Retention Easement

May 12, 2015

BACKGROUND:

City Council referred to staff a letter from John and Julie Larson of 1515 Indiana (Patio Homes West, First Addition Lot #18) regarding the construction of a three season porch to the rear of their home. The Larsons spoke with staff regarding this construction prior to City Council receipt of the letter, and staff relayed to the Larsons that due to the restrictions of a water retention easement on the property, staff could not approve the structure to be built within this easement area. The existing water retention easement area was established in 1980 as a part of the restrictive covenants of the Patio Homes West Association, Inc. This easement extends 50' in width along the rear property line.

City Council directed staff, upon agreement with the Larsons, to solicit quotes for engineering services to evaluate the drainage area and determine any ability to vacate portions of the existing easement at the sole cost of the Larsons, with staff coordinating the evaluation. The Larsons agreed, depending on the cost, to reimburse the City for the cost of the evaluation. Staff sent quote requests to three local firms and received a response from only one, Clapsaddle-Garber Associates (CGA), which was in the amount of \$3,500 to evaluate the area. The Larsons agreed to pay this amount and entered into a reimbursement agreement with the City.

Staff received the final evaluation report of the area which showed the existing easement area may be reduced. The report also recommended a minimum protective elevation, three feet above the 100-year ponding elevation, be established to protect new openings, such as window wells, on future dwellings/additions. Attachment A shows the easement areas and Attachment B show the resulting adjustments to the easement areas.

At the January 27, 2015 Council Meeting, Council directed staff to work with the Home Owner's Association and the adjacent property owners on Kentucky Avenue to determine their interest in adjusting the existing easement area. Staff has also had several discussions with the Legal Department to determine the best course of action to move forward with the easement adjustment.

On April 28, 2015 Staff met with the Larson's and the Home Owner's Association President to provide options for the easement adjustment. **It has been determined that the existing restrictive area is actually only noted within the HOA's restrictive covenants and not an official easement to the City.** The HOA President has agreed

to revise the covenants to add additional language to restrict construction in areas shown in CGA's report to meet the three-foot protection elevation. The HOA would then have the document recorded with the Story County Recorder. However, this would not be an official easement, but an item within the restrictive covenants that which could not be revised by the City.

Staff continues to develop documents/graphics to aid the property owners along Kentucky Avenue in determining their interest in adjusting the existing easement area. The content of these documents continues to be an iterative process and will be completed within the next couple of weeks and ready to be sent to the property owners pending the results of this report.

It has been determined that the existing two easements along the backs of the properties on Kentucky would also need to be vacated as they are blanket easements over multiple properties. New easements would then need to be established on an individual lot basis, either with the newly defined terms and dimensions or with the same terms just for the individual lots. It is not clear at this time how many property owners will agree to the adjustment of the easement area.

OPTIONS:

Taking into consideration the above, the Council could consider the following options:

Option 1- Work To Secure An Easement For Only The Property At 1515 Indiana

This issue can be finalized very quickly as the one property owner at 1515 Indiana has agreed to grant an easement on his individual property to the City.

Should this option be chosen, Staff will draft the easement language for signature and recording. **This will allow the three-season porch, that was initially discussed just over one year ago, to be constructed without any further delay.** If other property owners within the evaluation area (both Indiana and Kentucky) eventually are interested, they can go through the same process of having an individual easement on the property. This option has no effect on the existing restrictive covenants.

Option 2- Work To Modify The HOA's Restrictive Covenants

Accept the HOA's offer to update the restrictive covenants and direct staff to provide the necessary language to satisfy the easement needs that also take into account the 3-foot flood protection elevation. The HOA will then have the revised covenant recorded at Story County. The easement would then be contained within the restrictive covenants, which are under the control of the HOA, not the City.

Staff would also continue to work the residents on Kentucky to determine their interest in revising the easement areas as determined the CGA's report.

With this option, Staff would provide the easement descriptions to the HOA to be implemented and recorded as soon as possible to allow the 1515 Indiana property owner to begin the process of constructing the three-season porch that was initially discussed just over one year ago without any further delay. As noted above, this option would not result in an official easement to the City, but only an item within the HOA's restrictive covenants.

Option 3 - Work To Obtain A Traditional Easement Throughout The Entire Area

Reject the HOA's offer to update the restrictive covenants and direct staff to continue to obtain a traditional easement over the entire evaluation area.

Staff would also continue to work the residents on Kentucky to determine their interest in revising the easement areas as determined the CGA's report.

Option 4 - Make No Changes & Prohibit the Requested Porch To Be Built

Decide to not move forward with any language changes to the restrictive covenants or easement adjustments. Under this option, Council would make no changes to the easements, since the stormwater drainage in this area appears to be functioning as originally designed, **thus no structures would be allowed to be built within the area.**

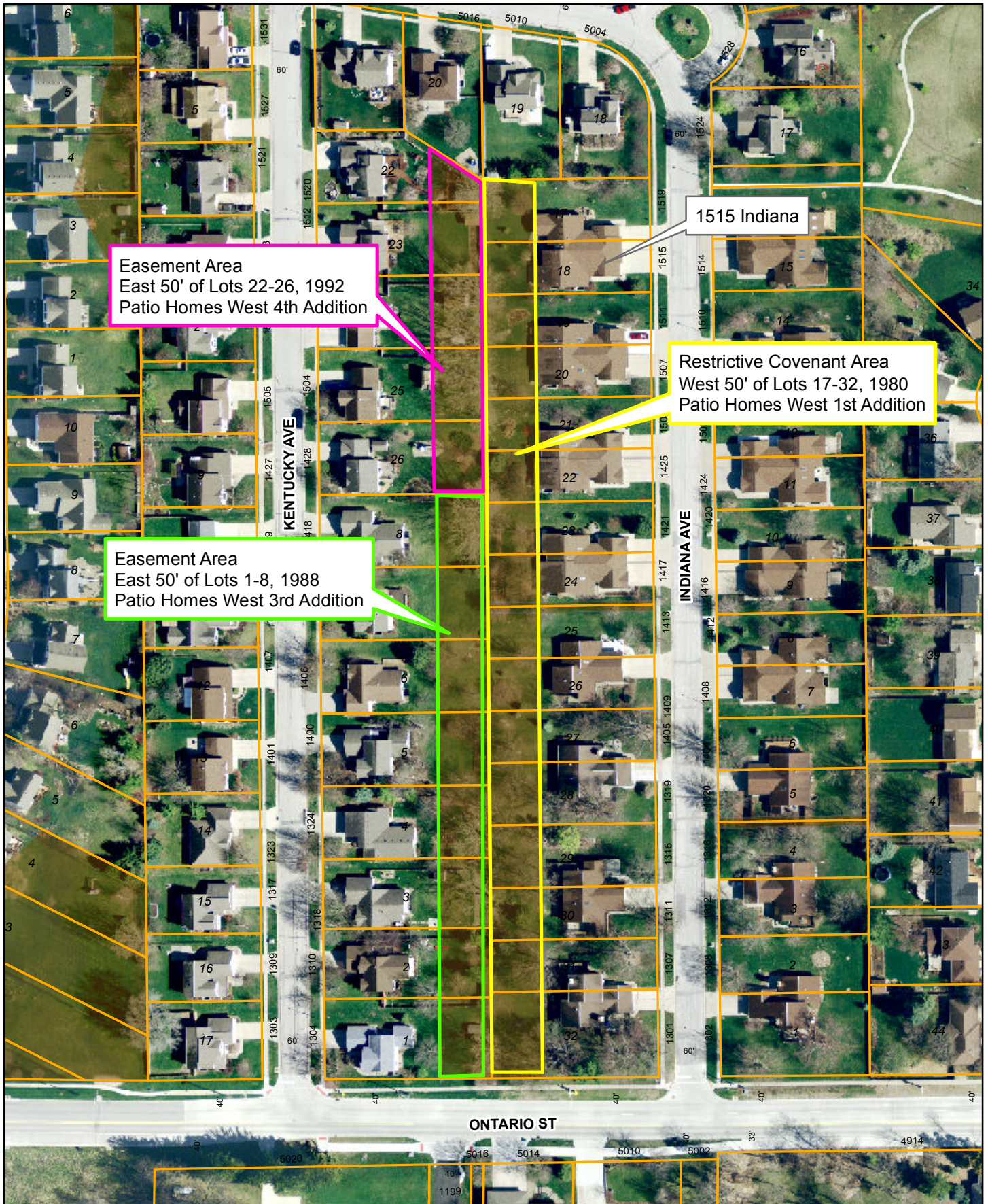
STAFF COMMENTS:

With all of the issues described above, this process has become quite cumbersome and time consuming for staff to complete the task directed by the City Council. Consequently, if the Council desires to respond in a more timely manner to the one property owner who raised the issue to allow for the construction of a three-season porch, then Option 1 appears to be the preferred course of action. The staff would then work with individual property owners in the area on an as requested basis to obtain individual easements.

It should be noted that with both Options 2 and 3, a hearing regarding the vacation of the current easement has been commenced but had been continued to allow staff additional time to draft the easement documents for all the additional properties. If vacation of the current easement is the chosen course of action, a date for needs to be set for the hearing in order to proceed with the vacation of the existing easements along Kentucky Avenue. However, if Option 1 or 4 is pursued, Council will need to direct that the hearing will be cancelled, since it will no longer be necessary.

The Council should note that the property owner of 1515 Indiana had agreed to cover the recording fees related to the vacation. It was previously estimated that these costs

would be less than \$50. However, with the need for individual easements to be recorded on the Kentucky Avenue portions (Options 2 and 3), this cost could be more than \$175 depending on the extent of the documents to be recorded. The property owner at 1515 Indiana does not believe it would be fair to expect him to pay those additional costs.



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Attachment A
Easement Areas



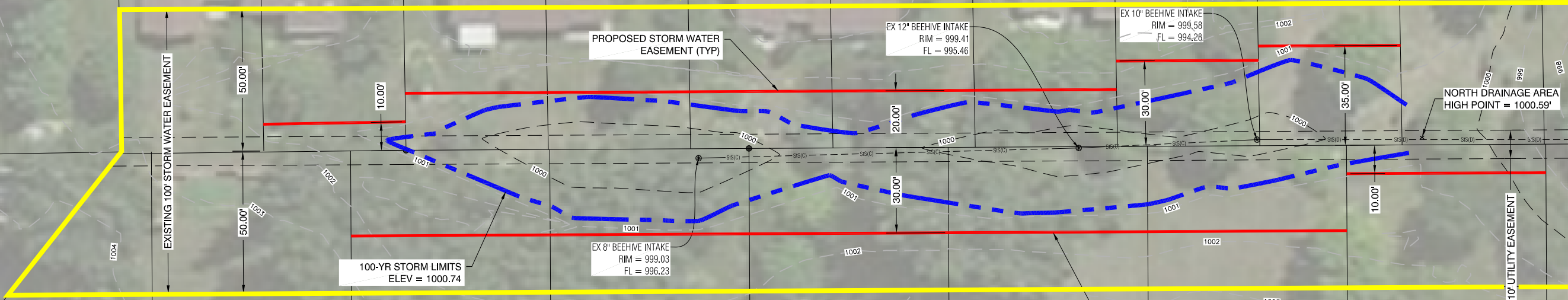
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Date: 2/19/2015

Attachment B

INDIANA AVENUE

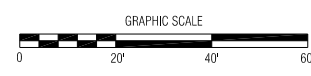


Existing Easement



KENTUCKY AVENUE

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NO.	REVISION	BY	DATE	NO.	REVISION	BY	DATE

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 www.cgaconsultants.com

DESIGNED: AJI DATE: 12-5-14
 DRAWN: AJI DATE: 12-5-14
 CHECKED: MMB DATE: 12-15-14
 APPROVED: MMB DATE: 12-30-14

PATIO HOMES WEST, 1ST ADDITION
 AMES, IOWA

**RECOMMENDED STORM WATER
 DETENTION EASEMENT**

PROJECT NO. 8683
 SHEET NO. D-2